

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

BCWD – Appeal Petition filed by Sri T.Gowri Shankar S/o R.Tiruvengada Swamy, R/o Banala Street, Chittoor District against the Proceedings No.Roc.C3/2711/2003, dated. 15-10-2004 of Collector and District Magistrate, Chittoor District – Appeal petition rejected - Orders – Issued.

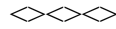
BACKWARD CLASSES WELFARE (C1) DEPARTMENT

G.O.Rt.No:302

Dated: 27-09-2008

Read the following:

- 1) From the Collector & District Magistrate, Chittoor District, Proceedings No.Roc.C3/2711/2003, dated. 15-10-2004.
- 2) From Sri T.Gowri Shankar S/o R.Tiruvengada Swamy, R/o Door.No.13-65, Banala Street, Chittoor District, dated. 24-02-2005.
- 3) Govt.Memo.No.2557/C1/2005-1, dated. 15-07-2005.
- 4) From the Collector & District Magistrate, Chittoor District, Lr.No.C3/7471/2005, dated. 21-08-2005.



O R D E R:

The Collector & District Magistrate, Chittoor District in his Proceedings 1st read above, has cancelled the B.C. Certificate issued by the Mandal Revenue Officer, Chittoor , in favour of Sri T.Gowri Shankar S/o R.Thiruvengada Swamy R/o Banala Street, Chittoor.

2. Aggrieved by the above orders of the District Collector, Chittoor District Sri T.Gowri Shankar S/o R.Thiru vengada Swamy, Chittoor in the reference 2nd read above, has filed an appeal petition before the Government , and, requested to suspend the orders , passed by the District Collector, Chittoor District pending disposal of the appeal and pass such other suitable order or orders in the circumstances of the case.

3. The appeal petition was taken on file. In the reference 3rd read above the original records and parawise remarks were called for from the Collector, Chittoor District. The Collector and District Magistrate, Chittoor District, in his letter 4th read above has submitted the parawise remarks and the original records. The case was posted for hearing on 17-10-2005 and 15-12-2005.

4. The brief facts of the case are that sri R.Thiru Vegada Swamy father of Sri T.Gowri Shankar submitted a representation to the District Administration requesting for the issue of a “Community Certificate” to his son Sri T.Gowri Shankar (the Appellant herein), while stating that he was a native of North Arcot District of Tamil Nadu and belongs to “GAVARA” Community which is a Backward Class Community. He stated that he married Smt. Narayanamma of Chittoor, on O.C. (Baliya) women, in the year 1961 and settled down at Chittoor as Illatam Son-in-law, since his wife was employed in Chittoor Municipality; they have been living in Chittoor Town since 1961.They acquired house property in Chittoor; he retired on 30-06-1990, and his wife Smt. Narayanamma also retired from service as a Accountant in Chittoor Municipality. All the family members speak Telugu at home.

5. He submitted copies of his “Secondary School Leaving Certificate”, “Caste Certificate issued by the Office of the Director of Harijan Welfare, Madras dt. 19-07-1955” and “Transfer Certificate from School” to establish his community as Hindu “GAVARA”, a caste, being treated as Backward Class Community in both the States of Tamil Nadu and Andhra Pradesh.

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6. The Advocate for the Appellant during the hearing, through his arguments, concurred with the afore said information. The Mother of the Appellant also reiterated these points.

7. The contention of the District Collector, Chittoor, in his Proceeding No.Roc.C3/2711/2003, dt. 15-10-2004, has been that:

- The Appellant's family has no relatives on the father's side at Chitroor, as all of them belong to Kavaripalem in North Arcot District of Tamil Nadu State.
- The Appellant's relatives in Chittoor belong to his mother's side and belong to "Balija" – OC Community. There was no possibility to make enquiry and hence the issue of a fresh Caste Certificate, based on the Caste Certificate of the Appellant's father, was not possible.
- Govt. in Memo.No.30870/J1/90-2, Social Welfare (J) Department, dt. 09-05-1991, issued instructions against the extension of benefits to persons belong to other States residing in Andhra Pradesh.

8. The Advocate for the Appellant further argued, quoting the judgment of Hon'ble Supreme Court, reported in AIR 2004 – SC 992 in which a reference was made to the "Government of India Instructions", issued in the year 1985 and in 1986 with regard to the issue of "Caste Certificates" and relevant portions of the same which are extracted below:

"Prescribed authority of a State Government/Union Territory Administration may issue a SC/ST Certificates to a person who has migrated from another State on the production of genuine Certificate issued to his father by the prescribed authority of the State of father's origin."

"Thus, in the case under reference, a recognized Schedule Caste/Schedule Tribe of any other State/Union Territory would be entitled to the benefits and facilities provided for Schedule Caste and Scheduled Tribes in the service under the Union Territory of Chandigarh. All cases may be finalized in the light of the position clarified above".

9. The Advocate for the Appellant pleaded that the Instructions of Government of India can be applied "mutatis mutandis" and thus the said principle applies to BCs also. He argued that his Client is, therefore, eligible for reservation in A.P. on the following grounds:-

- 1) He was born brought up and educated in the State of A.P.
- 2) The Caste "Gavara" is a Backward Class Community in the erstwhile Madras State, which included Andhra area in the then Madras State.
- 3) The Chittoor District is a boarder District to the Tamil Nadu State and several Tamilians settled in the Chittoor District.
- 4) The Caste "GAVARA" is a B.C. Community in both the States of A.P. and Tamil Nadu.
- 5) The Appellant T.Gowri Shanker has been issued the Caste Certificates, twice, on the basis of the Certificates of his father issued in the State of his father's origin by the prescribed authorities.

10. The Advocate for the petitioner also relied upon another judgment of the Hon'ble Supreme Court, reported in AIR 2000 –SC 525, to fortify his arguments. The following are the relevant contents of that judgment:-

“One Sri Dudh Nath Prasad was appointed as a member of the Indian Administrative and Allied Services. The individual and his parents belonged to “Nuniya Caste”. The individual was born and brought up in the State of Bihar and had his education up to graduation level in the State of Bihar. His parents were, however, residing in the State of West Bengal for nearly 30 years, prior to the IAS examination. “Nuniya” Caste was notified by the State of West Bengal as Scheduled Caste, but was not so declared by the State of Bihar.

The Hon’ble Supreme Court in this case held that “since the parents were living in West Bengal State for more than 30 years before the examination, the District Officer or Sub Divisional Officer in the instant case could legally issue the Caste Certificate and also certify that his parents were “ordinarily residing” in the District Howra”. “Their status should not be affected by the temporary residence of the respondent for the purpose of his education in the State of Bihar”. The Supreme Court held that “the individual was entitled for issue of Scheduled Caste certificate by the authorities of West Bengal and entitled for reservation basing on the declaration of the said Caste as Scheduled Caste by West Bengal Government”.

11. In the instant case the Advocate submitted that, both in the States of Tamil Nadu and Andhra Pradesh the Caste “GAVARA” is declared as B.C. Community. The Appellant was born in A.P. and his parents and himself continue to be “ordinarily residents” of the A.P. State as per the observations of the Supreme Court.

12. It was also argued that the Government Memo.No.30870/J1/90-2, Social Welfare (J) Department, dt. 09-05-1991 was ‘specific in its wording against the extension of benefits of B.C. reservations to the children of migrants by virtue of appointment etc.,’ - which clearly intends that these instructions apply to those who come for a “temporary stay to A.P. State by virtue of employment” under the Central Government, its undertakings or private Organizations and further for admission in professional courses under EAMCET 1990.

13. The Advocate added that the parents of the Appellant Sri T.Gowri Shankar have settled in Chittoor District long ago (since 1961) and have been living there since then, for all intents and purposes. Therefore, they shall be treated to be “ordinarily residing” in the State of Andhra Pradesh and hence the Appellant Sri T.Gowri Sanker who was born, brought up and educated in the A.P. State shall be entitled to all the benefits accrued there to as per Law.

14. “In the afore said background, the stand taken by the District Administration in the case, to discontinue the benefits of reservations, by canceling the Caste Certificates already issued to the Appellant, was wholly unjust and unreasonable and hence”, the Advocate finally requested, “to allow” his Appeal.

15. The Government, after careful examination of the records, is of the opinion that it is not desirable to extend the benefit o reservation to the children of migrants by virtue of appointment etc. claiming under Backward class quota even though the particular caste existed in the list of Back ward classes of both the states i.e., state of origin and state of migration, as other wise the actual members of backward classes of this state will be deprived of their legitimate right of getting a seat in the Educational Institutions of this state. The instructions issued in Govt Memo.No.30870/J1/90-2,SW(J) Dept,Dt.9-5-1991 is in accordance with the Supreme Court judgment which is the law of the lard and binding on all public authorities.

16. Accordingly, the appeal filed by the appellant Sri T.Gowri Shankar is hereby rejected.

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17. The original records received through the reference 3rd cited above are returned herewith to the District Collector, Chittoor District (containing pages 1 to 252 Cf and 1 to 16 Nf.)

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

T.SATYANARAYANA RAO
SECRETARY TO GOVERNMENT

To:

1.The Collector & District Magistrate,
Chittoor District (w.e) (original)
2.Sri T.Gowri Shankar S/o R.Tiruvengada Swamy,
Resident of Door No.13-65,
Banala Street,
Chittoor Disrtrict.

Copy to:

1.The P.S. to M (BCW)
2. The Director,
B.C.Welfare, Hyderabad.
3. Sri B.Rama Krishna, Advocate,
85, S.B.I. Officers Colony,
Moosaram Bagh, Hyderabad. – 36
4. SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER